

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF
2003

NOVEMBER 17, 2003.—Ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany S. 523]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 523) to make technical corrections to laws relating to Native Americans, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 523 is to make technical corrections to law relating to Native Americans, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

S. 523 makes technical changes to Indian laws relating to tribal sovereignty, culture, and economic development potential. These changes include the extension of several expiring authorizations, amending provisions and statutes relating to particular Indian tribes, and modifying certain Native American programs. The following is a short summary of the major sections of the bill:

- Section 101 extends the authority of the Bosque Redondo Memorial Act from fiscal year 2000 to fiscal year 2004 and extends the authorization for appropriations through fiscal year 2006.
- Section 102 extends the authority of programs authorized by the Navajo-Hopi Land Settlement Act of 1974 through fiscal year 2006.
- Section 103 clarifies that Indian tribes that accepted the Indian Reorganization Act are not required to adopt constitutions

pursuant to that law and are free to organize their governing bodies in a manner that they determine.

- Section 104 amends the Cow Creek Band of Umpqua Tribe Indians Recognition Act to clarify that lands shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust.

- Section 105 amends the Pueblo de Cochiti settlement regarding the proper use of settlement funds.

- Section 106 reauthorizes the Four Corners Interpretive Center Act through fiscal year 2008.

- Section 107 corrects the legal descriptions for certain lands already placed into trust and reservation status for the Mississippi Band of Choctaw Indians.

- Section 108 adds Celilo Indian Village to legislation that authorizes the Army Corps of Engineers to rehabilitate existing fishing sites.

- Section 121 authorizes the Barona Band of Mission Indians to take land into trust for the purpose of building a water pipeline to assist both the federal and local fire service.

- Section 122 requires the Secretary of Agriculture to convey to the relevant Alaskan Native corporations all artifacts, physical remains, and copies of any available field records.

- Section 123 authorizes Secretary of the Interior to acquire land and subsurface rights within the boundaries of the Acoma Indian Reservation.

- Section 124 authorizes the Secretary of the Interior to conduct a water source, quantity and quality feasibility study for the Quinault Indian Nation.

- Section 125 authorizes a feasibility study to determine the most feasible method of developing an industrial water plant for the Santee Sioux Tribe.

- Section 126 authorizes the Shakopee Tribe to sell, lease, convey, or warrant lands it holds in fee.

- Section 127 authorizes the Department of the Interior to take land into trust for the Agua Caliente Band of Cahuilla Indians and extinguishes the restrictive covenant attached to that parcel.

- Section 128 adds the Saginaw Chippewa Tribal College to the list of eligible institutions under the Equity in Educational Land Grant Status Act of 1994.

- Section 129 exempts mineral and development activity on certain lands held in trust by the Ute Indian Tribe to execute resource development contracts with third parties.

- Title II deals with the Pueblo of Santa Clara and Pueblo of San Ildefonso, to wit:

- Section 201 defines the terms “agreement,” “boundary line,” “Governors,” “Indian Tribe,” “Pueblos,” and “Trust Land.”

- Section 202 declares rights, title, and interest in certain lands to be held in trust for the Pueblo of Santa Clara.

- Section 203 declares, rights, title, and interest in certain lands to be held in trust for the Pueblo of San Ildefonso.

- Section 204 directs the Bureau of Land Management to conduct a survey of boundary lines.

- Section 205 declares that the lands taken into trust for the two Pueblos are part of their reservations.

- Section 206 provides for protection against existing rights to reservation lands.
- Section 207 states that lands mentioned in Title II may not be used for gaming.
- Title III deals with the distribution of Quinault Permanent Fisheries Funds, to wit:
 - Section 301 provides for the distribution of judgment funds awarded to the Quinault Indian Nation.
 - Section 302 states that the judgment funds should be dispersed to the Quinault Indian Nation not later than 30 days after enactment of S. 523.

COMMITTEE ACTION

S. 523 was introduced on March 5, 2003, by Senator Ben Nighthorse Campbell. It passed the Senate on July 30, 2003. The bill was referred to the Committee on Resources. On October 29, 2003, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office (CBO), enactment of this bill could result in foregone offsetting receipts (a credit against direct spending) from lands which would be taken into trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso. However, CBO concludes that "enacting S. 523 would result in no significant direct spending effects."

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective

of this bill is to make technical corrections to law relating to Native Americans, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 3, 2003.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC 20515*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 523, the Native American Technical Corrections Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 523—Native American Technical Corrections Act of 2003

Summary: S. 523 would authorize appropriations for various programs that affect Indians and Indian Tribes. CBO estimates that implementing S. 523 would cost \$14 million in 2004 and \$50 million over the 2004–2008 period, assuming appropriation of the necessary amounts.

Because S. 523 would direct the Secretary of the Interior to take 4,484 acres of federal lands and interests into trust on behalf of the Pueblo of Santa Clara and the Pueblo of San Ildefonso in New Mexico, enacting S. 523 could result in forgone offsetting receipts (a form of direct spending) from the lands that generate income from programs to develop natural resources. The affected lands currently generate no significant receipts. Based on information from the Bureau of Land Management (BLM), CBO estimates that enacting S. 523 would result in no significant direct spending effects.

S. 523 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit a number of Indian tribes.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 523 is shown in the following table. The cost of this legislation would fall within budget functions 300 (natural resources and environment), 450 (community and regional development), and 800 (general government).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION					
Bosque Redondo Memorial Act:					
Authorization Level	1	1	1	0	0

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
Estimated Outlays	1	1	1	0	0
Navajo-Hopi Land Settlement Act:					
Estimated Authorization Level	7	7	7	8	8
Estimated Outlays	4	7	7	8	8
Rehabilitation of Celilo Indian Village:					
Estimated Authorization Level	11	0	0	0	0
Estimated Outlays	7	4	0	0	0
Quinalt Indian Nation Water Feasibility Study:					
Estimated Authorization Level	1	0	0	0	0
Estimated Outlays	1	0	0	0	0
Santee Sioux Tribe Study and Report:					
Estimated Authorization Level	1	0	0	0	0
Estimated Outlays	1	0	0	0	0
Total:					
Estimated Authorization Level	21	8	8	8	8
Estimated Outlays	14	12	8	8	8

Basis of estimate: For this estimate, CBO assumes that S. 523 will be enacted early in fiscal year 2004 and that the necessary amounts will be appropriated for each fiscal year.

Spending subject to appropriation

CBO estimates that implementing S. 523 would cost about \$50 million over the 2004–2008 period to implement the activities that would be authorized by the bill.

Bosque Redondo Memorial. Section 101 would authorize the appropriation of \$1 million in 2004 and \$500,000 in years 2005 and 2006 for the Secretary of Defense to make grants to New Mexico for up to 50 percent of the cost of constructing the Bosque Redondo Memorial within the boundaries of Fort Sumner State Monument. The state would be required to match the federal contributions to be eligible for the grants. Based on information from the state, CBO expects that those matching funds would be provided in the same year the federal share is appropriated. Assuming the appropriation of the specified amounts, CBO estimates that the federal share of the costs of constructing the monument would be \$2 million over the 2004–2006 period.

Navajo-Hopi Land Settlement. Section 102 would authorize the appropriation of funds through 2008 for Navajo and Hopi Indian housing and relocation benefits for tribal members living in disputed areas. Assuming appropriation of the necessary amounts, CBO estimates that this provision would cost \$34 million over the 2004–2008 period. This estimate assumes that annual appropriations over the 2004–2008 period would equal the \$7 million appropriated for fiscal year 2003 with an adjustment for anticipated inflation.

Rehabilitation of Celilo Indian Village. The act would authorize the U.S. Army Corps of Engineers to rehabilitate the Celilo Indian Village in Oregon. Based on information from the Corps, CBO estimates that this provision would cost \$11 million over the 2004–2008 period.

Quinalt Indian Nation Water Feasibility Study. Section 126 would authorize the Secretary of the Interior to conduct a feasibility study of current and future domestic and commercial water supply needs of the Quinalt Indian Nation. Based on information from the Bureau of Reclamation, CBO estimates that the study

would cost \$1 million in fiscal year 2004, assuming appropriation of the necessary amount in that year.

Santee Sioux Tribe Study and Report. S. 523 would authorize the Bureau of Reclamation to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska. Based on information from the agency, CBO estimates that this study would cost about \$500,000 over the 2004–2008 period.

Saginaw Chippewa Tribal College. The act would add the Saginaw Chippewa Tribal College to the list of Indian tribal colleges eligible for certain funds from the Agriculture Department. Under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), \$100,000 per year is authorized to be appropriated for each Indian tribal college to provide for facilities and instruction in food and agricultural sciences. CBO estimates that implementing this provision would cost \$500,000 over the 2004–2008 period.

Direct spending

Title II would direct the Secretary of the Interior to take 4,484 acres of federal lands and interests into trust on behalf of the Pueblo of Santa Clara and the Pueblo of San Ildefonso in New Mexico. Taking lands into trust for Indian tribes could result in forgone offsetting receipts (a credit against direct spending) if, under current law, the lands would generate income from programs to develop natural resources. According to BLM, however, the affected lands currently generate no significant receipts and are not expected to do so over the next 10 years. Further, the bill specifies that valid existing rights would not be affected by the proposed transfer of lands; hence, CBO estimates that any forgone offsetting receipts under S. 523 would be negligible.

Intergovernmental and private-sector impact: S. 523 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit a number of Indian tribes.

Previous cost estimate: On May 21, 2003, CBO transmitted a cost estimate for S. 523 as ordered reported by the Senate Committee on Indian Affairs on April 10, 2003. The version approved by the House Committee on Resources does not include provisions that would waive the repayment of expert assistance loans to the Pueblo of Santo Domingo, the Oglala Sioux Tribe, and the Seminole Tribe of Oklahoma. Those provisions were included in the Senate version of the legislation, and CBO estimated that such provisions would increase direct spending by \$300,000 in 2004. Estimated spending subject to appropriations is the same for both House and Senate versions of S. 523.

Estimate prepared by: Federal Costs: Lanette J. Walker—Main contact; David Newman—Bosque Radondo Memorial; Megan Carroll—Pueblo of Santa Clara and the Pueblo of San Ildefonso; Julie Middleton—Rehabilitation of Celilo Indian Village, Quinault Indian Nation Water Feasibility Study, and Santee Sioux Tribe, Study and Report; Matthew Pickford—Navajo-Hopi Land Settlement; and David Hull—Saginaw Chippewa Tribal College.

Impact on State, Local, and Tribal Governments: Marjorie Miller.

Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 206 OF THE BOSQUE REDONDO MEMORIAL ACT

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) \$1,000,000 for fiscal year [2000] *2004*; and

(2) \$500,000 for each of fiscal years [2001 and 2002] *2005 and 2006*.

(b) CARRYOVER.—Any funds made available under this section that are unexpended at the end of the fiscal year for which those funds are appropriated, shall remain available for use by the Secretary through September 30, [2002] *2007*, for the purposes for which those funds were made available.

SECTION 25 OF THE ACT OF DECEMBER 22, 1974

(Public Law 93-531; commonly known as the “Navajo-Hopi Land Settlement Act of 1974”)

AN ACT To provide for final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes to and in lands lying within the joint use area of the reservation established by the Executive order of December 16, 1882, and lands lying within the reservation created by the Act of June 14, 1934, and for other purposes.

SEC. 25. (a)(1) * * *

* * * * *

(8) For the purposes of carrying out the provisions of section 15 of this Act, there is authorized to be appropriated not to exceed \$30,000,000 [annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000] *for each of fiscal years 2003 through 2008*.

* * * * *

SECTION 16 OF THE ACT OF JUNE 18, 1934

AN ACT To conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

SEC. 16. (a) * * *

* * * * *

(h) *TRIBAL SOVEREIGNTY.*—*Notwithstanding any other provision of this Act—*

(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).

SECTION 7 OF THE THE COW CREEK BAND OF UMPQUA TRIBE OF INDIANS RECOGNITION ACT

SEC. 7. CERTAIN PROPERTY TAKEN INTO TRUST.

The Secretary of the Interior shall accept title to 2000 acres of real property and may accept title to any additional number of acres of real property located in Umpqua River watershed upstream from Scottsburg, Oregon, or the northern slope of the Rogue River watershed upstream from Agness, Oregon, if such real property is conveyed or otherwise transferred to the United States by or on behalf of the Tribe. The Secretary shall take into trust for the benefit of the Tribe all real property conveyed or otherwise transferred to the United States pursuant to this section. Real property taken into trust pursuant to this section shall become part of the Tribe's reservation, *and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust.* Real property taken into trust pursuant to this section shall not be considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SECTION 1 OF THE ACT OF AUGUST 26, 1992

(Public Law 102–358)

AN ACT To authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100–202.

SECTION 1. GENERAL AUTHORIZATION.

The Secretary of the Interior and the Secretary of the Army are authorized and directed to **[implement the settlement]** *implement—*

(1) the settlement; agreement negotiated under the authority of Public Law 100–202 by the Pueblo de Cochiti of New Mexico, a federally recognized Indian Tribe, and the United States Army Corps of Engineers, as set forth in the report of the Corps of Engineers entitled “Report on Investigations, Wet

Field Solution”, dated July 24, 1990, addressing seepage problems at the Cochiti Dam on tribal lands[.]; and

(2) *the modifications regarding the use of the settlement funds as described in the agreement known as the “First Amendment to Operation and Maintenance Agreement for Implementation of Cochiti Wetlands Solution”, executed—*

(A) on October 22, 2001, by the Army Corps of Engineers;

(B) on October 25, 2001, by the Pueblo de Cochiti of New Mexico; and

(C) on November 8, 2001, by the Secretary of the Interior.

SECTION 7 OF THE FOUR CORNERS INTERPRETIVE CENTER ACT

(Public Law 106–143)

AN ACT To authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Department of the Interior to carry out this Act—

(1) * * *

(2) \$50,000 for each of fiscal years 2001 through [2005] 2008 for maintenance and operation of the Center, program development, or staffing in a manner consistent with the requirements of section 5(b).

(b) CARRYOVER.—Funds made available under subsection (a)(1) that are unexpended at the end of the fiscal year for which those funds are appropriated, may be used by the Secretary through fiscal year [2002] 2005 for the purposes for which those funds are made available.

(c) RESERVATION OF FUNDS.—The Secretary may reserve funds appropriated pursuant to this Act until a grant proposal meeting the requirements of this Act is submitted, but no later than September 30, [2001] 2004.

SECTION 1 OF THE ACT OF JUNE 29, 2000

(Public Law 106–228)

AN ACT To make technical corrections to the status of certain land held in trust for the Mississippi Band of Choctaw Indians, to take certain land into trust for that Band, and for other purposes.

SECTION 1. STATUS OF CERTAIN INDIAN LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) * * *

(2) all land held in fee by the Mississippi Band of Choctaw Indians located within the boundaries of the State of Mississippi, as shown in the [report entitled “Report of Fee Lands owned by the Mississippi Band of Choctaw Indians”, dated September 28, 1999, on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is hereby declared] *report entitled “Report of May 17, 2002, Clarifying and Correcting Legal Descriptions or Recording Information for Certain Lands placed into Trust and Res-*

ervation Status for the Mississippi Band of Choctaw Indians by Section 1(a)(2) of Pub. L. 106–228, as amended by Title VIII, Section 811 of Pub. L. 106–568”, on file in the Office of the Superintendent, Choctaw Agency, Bureau of Indian Affairs, Department of the Interior, is declared to be held by the United States in trust for the benefit of the Mississippi Band of Choctaw Indians; and

* * * * *

SECTION 401 OF THE ACT OF NOVEMBER 1, 1988

(Public Law 100–581)

AN ACT To establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987).

SEC. 401. (a) * * *

* * * * *

(b) Notwithstanding any other provision of law, the Secretary of the Army shall—

(1) * * *

* * * * *

(3) make improvements at existing sites *and Celilo Village*, including but not limited to dredging at the site at Wind River, Washington, and constructing a boat ramp on or near the site at Cascade Locks, Oregon.

* * * * *

SECTION 532 OF THE EQUITY IN EDUCATION LAND GRANT STATUS ACT OF 1994

SEC. 532. DEFINITION.

As used in this part, the term “1994 Institutions” means any one of the following colleges:

(1) * * *

* * * * *

(22) *Saginaw Chippewa Tribal College.*

[(22)] (23) Salish Kootenai College.

[(23)] (24) Sinte Gleska University.

[(24)] (25) Sisseton Wahpeton Community College.

[(25)] (26) Si Tanka/Huron University.

[(26)] (27) Sitting Bull College.

[(27)] (28) Southwestern Indian Polytechnic Institute.

[(28)] (29) Stone Child College.

[(29)] (30) Turtle Mountain Community College.

[(30)] (31) United Tribes Technical College.

[(31)] (32) White Earth Tribal and Community College.

* * * * *

**SECTION 3405 OF THE STROM THURMOND NATIONAL
DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999**

SEC. 3405. DISPOSAL OF OIL SHALE RESERVE NUMBERED 2.

(a) * * *

* * * * *

(c) CONDITIONS ON CONVEYANCE.—(1) * * *

* * * * *

[(3) The land conveyed to the Tribe under subsection (b) shall not revert to the United States for management in trust status.]

(3) *With respect to the land conveyed to the Tribe under subsection (b)—*

(A) the land shall not be subject to any Federal restriction on alienation; and

(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the “Indian Mineral Leasing Act of 1938”) (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.

* * * * *